

REMARKS

Claims 1-24 were examined and reported in the Office Action. Claims 1, 2, 4, 5, 7 -14, 16, 17 and 19-24 are rejected. Claims 1, 3, 7, 9-13, 19 and 21-24 are amended. New claims 25-28 are added. Claims 1-28 remain. Applicant has amended the specification to overcome the informal objections and drawing objections. No new matter has been added.

Applicant requests reconsideration of the application in view of the following remarks.

I. In the Drawings

Figs. 4A, 5A and 5B are objected to because reference numbers appear to be incorrect. The drawings are also objected to as failing to comply with 37 C.F.R. §1.84(p)(5) because they include reference characters not mentioned in the description. The drawings are also objected to under 37 C.F.R. §1.83(a) because they must show every feature of the invention specified in the claims. Applicant has amended Figs. 4A, 5A-D; added 5E and 7; and amended the specification to overcome the drawing objections. Approval is respectfully requested.

II. 35 U.S.C. §112, Second Paragraph

It is asserted in the Office Action that claims 3, 7, 9-12, 19 and 21-24 are rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to overcome the 35 U.S.C. §112, second paragraph rejections.

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph rejections for claims 3, 7, 9-12, 19 and 21-24 are respectfully requested.

III. 35 U.S.C. § 102(b)

It is asserted in the Office Action that claims 1, 4, 5, 7, 9-13, 16, 17, 19, and 21-24 are rejected under 35 U.S.C. § 102(b), as being anticipated by U. S. Patent No. 6, 158,870

issued to Ramirez ("Ramirez"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.’ (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). ‘The identical invention must be shown in as complete detail as is contained in the ... claim.’ (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).”

Applicant’s amended claim 1 contains the limitations of “[a] baby bottle holder comprising: at least one protruding side, the at least one protruding side having portions molded with teething material, a top portion coupled to a center portion, said center portion having at least one viewing portion, a lower portion including a through hole, a base portion removably coupled to said lower portion, wherein said baby bottle holder adapted to hold a baby bottle.”

Applicant’s amended claim 13 contains the limitations of “[a] baby bottle holder system comprising: a baby bottle removably coupled to a baby bottle holder, said baby bottle including a bottle portion, a cap portion including a nipple, and a cap lid, said baby bottle holder comprising: at least one protruding side, the at least one protruding side having portions molded with teething material, a top portion coupled to a center portion, said center portion having at least one viewing portion, a lower portion including a through hole, a base portion removably coupled to said lower portion, wherein said baby bottle holder adapted to hold the baby bottle, and said baby bottle engages the top portion of the baby bottle holder to prevent said baby bottle from exiting said baby bottle holder.”

Ramirez discloses a baby bottle attachment that has light and sound capability. The baby bottle attachment includes a friction sleeve and a main body. A baby bottle is

placed in the sleeve, which then attaches to the main body. Ramirez discloses reference 51, which is first disclosed as a vent to allow easy insertion/extraction of a baby bottle into a sleeve, and then secondly as an electrical channel. (See Ramirez, column 4, lines 48-52, column 10, lines 25-27). Either way, however, neither the vent nor the electric channel is equivalent to a viewing portion. Nor is either of the two designed as a viewing portion. Further, Ramirez does not teach, disclose or suggest Applicant's claims 1 and 13 limitations of "at least one protruding side, the at least one protruding side having portions molded with teething material." (See Applicant's original specification, page 5, paragraph [0021] "In one embodiment, first protruding side 120 includes pipe portions 110. In one embodiment pipe portions 110 are made of semi-rigid material, such as non-brittle rubber, soft plastic, foam rubber, etc. In another embodiment, pipe portions 110 are made of material adapted to be used for teething, such as soft rubber."). Moreover, nowhere in Ramirez is any part of the baby bottle attachment disclosed to include teething material.

Therefore, since Ramirez does not disclose, teach or suggest all of Applicant's amended claims 1 and 13 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Ramirez. Thus, Applicant's amended claims 1 and 13 are not anticipated by Ramirez. Additionally, the claims that directly or indirectly depend on claims 1 and 13, namely claims 4, 5, 7 and 9-12, and 16, 17, 19 and 21-24, respectively, are also not anticipated by Ramirez for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections for claims 1, 4, 5, 7, 9-13, 16, 17, 19, and 21-24 are respectfully requested.

IV. **35 U.S.C. § 103(a)**

It is asserted in the Office Action that claims 2 and 14 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Ramirez in view of U. S. Patent No. 5,044,509 issued to Petrosky et al. ("Petrosky"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142 “[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.” (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)). Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered* in judging the patentability of that claim against the prior art.” (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant's claim 2 directly depends on amended claim 1. Applicant's claim 14 directly depends on amended claim 13. As discussed above in section III, Ramirez does not teach, disclose or suggest all of the limitations contained in Applicant's amended claim 1 and 13.

Petrosky is relied upon for teaching that a baby bottle can be inserted into a rigid shell from a bottom portion. Petrosky, however, does not teach, disclose or suggest Applicant's claims 1 and 13 limitations of “at least one protruding side, the at least one protruding side having portions molded with teething material.” Moreover, nowhere in Petrosky is any part of the rigid shell baby bottle attachment disclosed to include teething material.

Neither Ramirez, Petrosky, nor the combination of the two, teach, disclose or suggest the limitations contained in Applicant's amended claims 1 and 13, as listed above. Since neither Ramirez, Petrosky, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's amended claims 1 and 13, as listed above, there would not be any motivation to arrive at Applicant's claimed invention. Thus, Applicant's amended claims 1 and 13 are not obvious over Ramirez in view of Petrosky

since a *prima facie* case of obviousness has not been met under MPEP §2142.

Additionally, the claims that directly or indirectly depend from amended claims 1 and 13, namely claims 2, and 14, respectively, would also not be obvious over Ramirez in view of Petrosky for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejections for claims 2 and 14 are respectfully requested.

V. Allowable Subject Matter

Applicant notes with appreciation the Examiner's assertion that claims 3, 6, 15, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has added new claims 25 and 26, which correspond to claims 3 and 6 re-written independent form, including all of the limitations of the base and intervening claims. Applicant has added new claims 27 and 28, which correspond to claims 15 and 18 re-written independent form, including all of the limitations of the base and intervening claims.

Applicant respectfully asserts that claims 1-28, as they now stand, are allowable for the reasons given above.

CONCLUSION

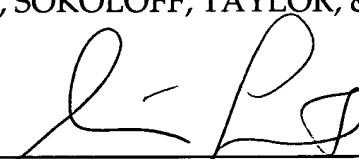
In view of the foregoing, it is submitted that claims 1-28 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

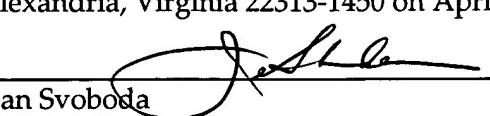
Dated: April 21, 2005

By: 
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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on April 21, 2005.


Jean Svoboda